

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RONNIE SUBER,)	
BONGAI MHLOYI, and)	
JEREMIAH MHLOYI,)	
Individually, and)	
together doing)	
business as "JB'S WEB",)	
)	
Plaintiff)	Civil Action
)	No. 10-cv-03156
vs.)	
)	
JON GUINTA;)	
OFFICER WRIGHT;)	
OFFICER KEUCH;)	
OFFICER INGEMIE;)	
OFFICER MILLER;)	
OFFICER SIMPKINS; and)	
THE CITY OF COATESVILLE,)	
)	
Defendants		

O R D E R

NOW, this 28th day of September, 2012, upon
consideration of the following documents:

- (1) Defendants' Officer James A. Pinto, III, Officer Ryan L. Wright, Officer Robert Keuch, Officer Jeffrey J. Ingemie, Officer Shannon N. Miller, Officer Claude Simpkins, and The City of Coatesville Motion to Dismiss Plaintiffs' Second Amended Complaint Pursuant to Rule 12(b)(6), which motion to dismiss was filed October 17, 2011 ("Officers' and City's Motion to Dismiss"); together with
 - (A) Defendants' Officer James A. Pinto, III, Officer Ryan L. Wright, Officer Robert Keuch, Officer Jeffrey J. Ingemie, Officer Shannon N. Miller, Officer Claude Simpkins, and The City of Coatesville Brief in Support of Motion to dismiss Plaintiffs' Second Amended Complaint Pursuant to Rule 12(b)(6);
- (2) Plaintiffs' Brief in Opposition to Motion of Defendants Pinto, Wright, Keuch, Ingemie, Shannon, Miller, Simpkins, and The City of Coatesville to Dismiss Plaintiffs' Second Amended Complaint, which brief in opposition was filed November 2, 2011; and

(3) Second Amended Complaint filed by plaintiffs
October 3, 2011, and re-filed October 12, 2011;

and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that the within Officers' and City's
Motion to Dismiss is granted in part and denied in part.

IT IS FURTHER ORDERED that the within motion is granted
to the extent it seeks to dismiss Count II of the Second Amended
Complaint against defendant Officers Wright, Keuch, Ingemie,
Miller, and Simpkins, and defendant The City of Coatesville for
violation of the First and Fourth Amendment rights of plaintiffs
Bongai Mhloyi and Jeremiah Mhloyi ("the Mhloyi Plaintiffs").

IT IS FURTHER ORDERED that the First and Fourth
Amendment claims asserted by the Mhloyi Plaintiffs under
42 U.S.C. § 1983 against defendants Officers Wright, Keuch,
Ingemie, Miller, and Simpkins, and defendant The City of
Coatesville are dismissed from Count II of the Second Amended
Complaint, with prejudice.

IT IS FURTHER ORDERED that the within motion is granted
to the extent it seeks to dismiss the equal protection conspiracy
claim asserted under 42 U.S.C. § 1985 in Count II of the Second
Amended Complaint by the Mhloyi Plaintiffs against defendant
Officers Wright, Keuch, Ingemie, Miller, and Simpkins, and
defendant The City of Coatesville.

IT IS FURTHER ORDERED that the Mhloyi Plaintiffs' equal protection conspiracy claim pursuant to 42 U.S.C. § 1985 against defendant Officers Ingemie, Keuch, Miller, Simpkins, and defendant The City of Coatesville is dismissed from Count II of the Second Amended Complaint, with prejudice.

IT IS FURTHER ORDERED that the within motion to dismiss is granted to the extent that it seeks to dismiss all of the Mhloyi Plaintiffs' claims against defendant Officer Wright in Count II of the Second Amended Complaint based on the statute of limitations.

IT IS FURTHER ORDERED that the Mhloyi Plaintiffs' claims against defendant Officer Wright are dismissed from Count II of the Second Amended Complaint, and that defendant Officer Wright is dismissed as a party to this action, with prejudice.

IT IS FURTHER ORDERED that, in all other respects, the within motion is denied.¹

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge

¹ It is the sense of this Order that the only remaining claims in the Second Amended Complaint are all of the claims of plaintiff Ronnie Suber in Count I against defendant Jon Guinta for violation of plaintiff's First, Fourth, and Fourteenth Amendment rights, brought pursuant to 42 U.S.C. §§ 1983 and 1985; and the claims of plaintiffs Bongai Mhloyi and Jeremiah Mhloyi in Count II against defendant Officers Keuch, Ingemie, Miller, and Simpkins, and defendant The City of Coatesville for violation of plaintiffs' Fourteenth Amendment rights to equal protection of the law, brought pursuant to 42 U.S.C. § 1983.